

CHAPTER 385

(Senate Bill 497)

AN ACT concerning

Trusts – Restrictions on Trustee's Exercise of Powers

FOR the purpose of restricting a trustee's exercise of powers where the trustee has the power to benefit the trustee; establishing certain exceptions; defining ~~certain terms~~ a certain term; excepting certain trusts from certain restrictions under certain circumstances; providing that certain restrictions do not create a new cause of action or impair certain existing causes of action under certain circumstances; providing for the application of this Act; and generally relating to trusts and restrictions on a trustee's exercise of powers.

BY adding to

Article – Estates and Trusts

Section 14-109

Annotated Code of Maryland

(1991 Replacement Volume and 1994 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Estates and Trusts

14-109.

(A) NONE OF THE FOLLOWING POWERS CONFERRED UPON A TRUSTEE BY THE GOVERNING INSTRUMENT MAY BE EXERCISED BY THAT TRUSTEE:

(1) THE POWER TO MAKE ANY DISCRETIONARY DISTRIBUTIONS OF EITHER PRINCIPAL OR INCOME TO OR FOR THE BENEFIT OF THE TRUSTEE IN ~~HIS~~ THE TRUSTEE'S INDIVIDUAL CAPACITY, UNLESS LIMITED BY AN ASCERTAINABLE STANDARD RELATING TO THE TRUSTEE'S HEALTH, EDUCATION, SUPPORT AND MAINTENANCE, AS DEFINED IN 26 U.S.C. §§ 2041 AND 2514 AND THE TREASURY REGULATIONS PROMULGATED UNDER THOSE SECTIONS;

(2) THE POWER TO MAKE ANY DISCRETIONARY DISTRIBUTIONS OF EITHER PRINCIPAL OR INCOME TO SATISFY ANY OF THE TRUSTEE'S LEGAL OBLIGATIONS IN THE TRUSTEE'S INDIVIDUAL CAPACITY FOR SUPPORT OR OTHER PURPOSES;

(3) THE POWER TO MAKE DISCRETIONARY ALLOCATIONS IN THE TRUSTEE'S FAVOR OF RECEIPTS OR EXPENSES AS BETWEEN INCOME AND PRINCIPAL;

(4) ANY POWER, IN WHATEVER CAPACITY HELD, TO REMOVE OR REPLACE ANY TRUSTEE WHO HOLDS ANY OF THE POWERS PROSCRIBED IN THIS SUBSECTION; OR